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C O N F I D E N T I A L SECTION 01 OF 03 KIEV 000987

SIPDIS

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TAGS: [PGOV](#) [PREL](#) [PHUM](#)

SUBJECT: UKRAINE: RADA ADDRESSES ELECTION-RELATED CONCERNS, WITH POLITICS INTRUDING

REF: A. KIEV 912

[¶](#)B. KIEV 936

Classified By: Charge d'affaires, a.i., reason 1.4 (b,d)

[¶](#)1. (SBU) Summary: On March 14, the Rada (parliament) addressed election-related concerns about deficiencies in Polling Station Commission (PSC) staffing and in the voters' lists voiced by Central Election Commission Chair Davydovych, NGOs, and political parties in recent days (refs A-B) by passing a series of technical amendments to the election law and budget law. While some changes were clearly necessary, other proposals proved fodder for the election campaign and mutual charges of intent to commit fraud. The amendments in Bills 9222 and 9208 to improve PSC staffing and fund higher stipends and last-minute voter education outreach received wide-ranging support, and Yushchenko is expected to sign them.

[¶](#)2. (SBU) The bill to allow election day changes to voter lists was politically polarizing, however, and President Yushchenko's representative in the Rada suggested Yushchenko would veto the version of Bill 9185 that passed, which would authorize local courts to approve election day additions to voter lists. The initial proposal by Party of Regions to authorize the PSCs to amend their own lists was rejected; a compromise version verbally offered by Rada Speaker Lytvyn passed after the Socialists switched to support the bill. Yushchenko's Rada representative warned Yushchenko would veto 9185 due to concerns about fraud and procedural irregularities, and Orange parties fingered the Regions' ability and track record of mischief in Donetsk as the primary reason for their opposition. In contrast, the head of the Committee of Voters of Ukraine (CVU) Ihor Popov supported all of the amendments; Popov also expressed concern that those who wished Ukraine ill would take advantage of expected election day difficulties to question the election's legitimacy. End Summary.

Addressing staffing shortfalls, other glitches

[¶](#)3. (SBU) A staffing shortfall problem at PSCs was created inadvertently by an election law that mandated committee representation by any Rada faction with 15 MPs at the time of the passage of the law (September 2005) at all 33,000 PSCs. This was exacerbated by low compensation for PSC service, the inability of the Yushchenko government to organize a nationwide effort effectively, and PSC commissioners' legal responsibility for elections violations, according to the CVU's Popov. The Rada's March 14 fix, Bill 9222, authorized District Election Commissions (DEC), which form the intermediate level between the CEC and PSCs, to staff the PSCs with candidates nominated from a range of sources: the DEC itself, PSC, party organizations, NGOs, and local administration officials (mayors, district chiefs). Bill 9208 amended the budget law to increase stipends for those serving as commissioners from 16 hryvnia (\$3.20) to 150 hryvnia (\$30) for three days' work.

[¶](#)4. (SBU) Note: 9222 also allowed changes to the local election ballots without requiring the ballots be reprinted; authorized printing of ballots in private printing houses, since government-owned printing firms could not produce all required ballots for all districts; clarified the allocation mechanism under proportional representation for the local elections; allowed PSC commission members to cast ballots at the PSC where they will work on election day; clarified the procedure for voiding election results at a PSC; and required the CEC to provide distance instruction via TV and Radio for PSC commissioners and to conduct additional public education outreach for voters.

Addressing voter list concerns...in politicized fashion

[¶](#)5. (SBU) Proper staffing of PSCs should help address a second concern: the quality of the voters' lists. In the absence of many functioning PSCs, some voters did not have the opportunity to check whether they were listed properly in the lists. CVU head Popov told us March 14 that he estimated more than 20 percent of PSCs remained non-functioning at the

beginning of March; when CVU representatives had examined lists in detail, up to 50 percent of the names had mistakes, mainly from transliteration (Russian to Ukrainian).

16. (SBU) Party of Regions attempted to secure passage of a separate bill March 14 that would have authorized PSCs to amend voter lists on the spot on election day; Regions, the Communists, SPDU(o), and Lytvyn's two factions supported the proposal, but the motion failed to gain the required 226 votes. When Rada Speaker Lytvyn verbally offered an "amended version" authorizing additions by court order only, the Socialist Party switched its votes to support the measure, allowing 9185 to pass. An Amcit working on U.S. political consultant Paul Manafort's advisory team to the Yanukovych campaign told Charge March 14 that Regions found the version that passed an acceptable compromise. CVU head Popov told Charge at a March 14 Embassy-hosted election roundtable that the requirement to stamp a voter's passport after a court-issued directive to add the name to the voter's list provided some protection against malfeasance.

17. (SBU) All the "Orange" factions voted against both versions of 9185: Our Ukraine; Tymoshenko's Bloc (BYuT); Rukh; Reforms and Order; Kostenko's Ukrainian People's Party (UPP); plus the reportedly Yekhanurov-affiliated "Vidrodzhennya" (Revival) faction. Their objections focused on the potential for malfeasance in Regions-dominated Donetsk, where Regions still wielded overwhelming administrative strengths. Our Ukraine MP Yuri Karmazin said that Our Ukraine voted against 9185 because even five or ten people simultaneously submitting appeals at a PSC on voting day could create a diversion for ballot stuffing and other violations. Ivan Zayets from UPP added that some Donetsk precinct commissioners had added up to five thousand people to their voter lists on previous election days; Our Ukraine representatives held a press conference March 10 alleging that PSC voter list alterations had already occurred, with flawed 2004 lists replacing the newer 2006 lists.

18. (SBU) Yushchenko's Rada representative Yuri Klyuchkovsky told a USG-funded elections project implementer after the vote that Yushchenko was almost certain to veto 9185 on two accounts:

-- the fraud that occurred during the 2004 Presidential elections, which he did not want repeated; and
-- the violation of procedures for introducing a draft bill; the vote had been taken on a verbally expressed idea, without anything on paper indicating specifically what was the subject of the vote.

19. (C) Commenting on the expected bill on March 13, BYuT campaign chair Turchynov told visiting EUR DAS Kramer and Charge that BYuT saw no need for legislation which only heightened the potential for abuses in administering the elections. He noted that while the voter list had problems, Party of Regions had effective administrative control in eastern Ukraine and he did not want to give them a tool to facilitate falsification (he added that Our Ukraine had similar control in some parts of western Ukraine).

110. (C) When Charge raised the procedural concerns with Presidential Chief of Staff Rybachuk March 13, Rybachuk asked what the CVU thought (note: a notable embrace of the positive role an NGO can play in the democratic process). Rybachuk pledged to talk to the CVU and to CEC Chair Davydovych, adding: "We're in charge of ensuring the elections go well."

Can there be a downside to no admin resource abuse?

111. (C) The Rada's March 14 amendments show a determination to try to address technical problems in the administration of the electoral process identified in the run-up to the election before it is too late. According to CVU's Popov, some of the weaknesses stem from the Yushchenko administration's aversion to using administrative measures to force local officials to carry out election-related duties; Popov noted that under Kuchma, chief of staff Medvedchuk would bully local officials to ensure proper PSC staffing, but Yushchenko was intent on avoiding accusations of administrative pressure on the process. Popov said an unintended result was that oblast officials were more concerned about cutting deals with potential new members of oblast councils to prevent themselves from being impeached than effectively organizing the elections.

112. (C) Popov noted that it was entirely possible that a party bloc that was likely to fall under the three-percent threshold to enter the Rada could challenge the results at almost any PSC, citing that the PSC was not functioning by the legal deadline, that voters were unable to check their names on the list, or that voters were unable to vote due to long lines. In Popov's opinion, any party with enough lawyers could lock up the election results in the courts,

leading to several months of judicial gridlock. Popov said that election administration could prove very messy March 26.

He stressed twice that the disarray could open the GOU to criticism "by the Russians, black forces, and bad guys" and be used to question the results of the election.

¶13. (C) Comment: Political parties continue to seek advantage by politicizing the electoral process, and some will no doubt try to call into question the legitimacy of the March 26 elections. The same parties behind the original version of Bill 9185 (which would have authorized PSCs to approve election day additions to voter lists) -- Regions, Communists, SPDU(o), and what is now the Lytvyn Electoral Bloc -- fought tooth and nail in the Rada in December 2004, prior to the December 26 revote which elected Yushchenko, against amendments designed to prevent fraud carried out by Yanukovych's legions in the first two rounds, claiming that limits to absentee and mobile balloting impeded the constitutional right to vote. Yanukovych's lawyers then exhausted every legal recourse after the revote to try to invalidate the results, delaying Yushchenko's inauguration.

¶14. (C) It appears that similar dynamics may again be in play. The expected election day confusion March 26 (long lines, overcrowded polling stations) may be an inconvenience to average citizens and neutral observers, but it could well provide an easy pretext for domestic parties dissatisfied with the results to bring multiple legal cases in the courts, and for external actors with an axe to grind in Ukraine to try to create doubt about the validity of the elections. Longstanding and recurring problems with inaccurate voter lists and imperfect polling station commissions appear to be a fact, but what makes this election different from its predecessors in Ukraine is the absence of evidence that the central authorities plan to systematically use these weaknesses, or any others, as tools to determine the outcome.

¶15. (U) Visit Embassy Kiev's classified website at:
www.state.sgov.gov/p/eur/kiev.

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